

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte: CHRIS E. BARNES, JUSTIN K. BRASK and MARK DOCZY

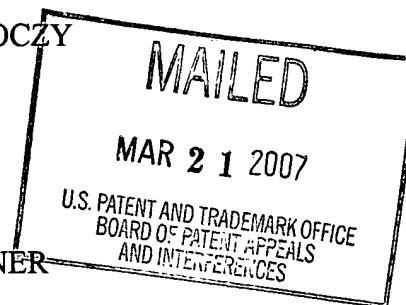
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Application No. 10/629,127

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences on December 14, 2006. A review of the application has revealed that the application is not ready for review and consideration. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

**EXAMINER'S ANSWER**

On March 28, 2006, an Examiner's Answer was mailed in response to the Appeal Brief received January 3, 2006. A review of the Examiner's Answer reveals that it is not in compliance with the Manual of Patent Examining Procedure (MPEP). In the "Evidence Relied Upon" (section 8, pg. 2) the Examiner indicates that "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal". In accordance with MPEP § 1207.02, the

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"Evidence Relied Upon" (section 8) should include:

(8) Evidence Relied Upon

A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

To remedy this and before further review, the Examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the list of references mentioned in the statement of rejections. Appropriate correction is required.

**CONCLUSION**

Accordingly, it is

**ORDERED** that the application is returned to the Examiner for appropriate action on the following:

- 1) issue and mail a PTOL-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8); and
- 2) for such further action as may be appropriate.

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